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REPORT
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THE INDIAN CHILD PROTECTIVE SERVICES AND FAMILY VIOLENCE PREVENTION ACT

JULY 30 (legislative day, JULY 10), 1990.—Ordered to be printed

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Mr. INOUYE, from the Select Committee on Indian Affairs, submitted the following

REPORT

[To accompany S. 2340]

The Select Committee on Indian Affairs, to which was referred the bill (S. 2340) to develop and improve child protective service programs on Indian reservations and to strengthen Indian families, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

PURPOSE

The purpose of S. 2340 is to develop and improve child protective service programs on Indian reservations and to strengthen Indian families.

BACKGROUND

The Select Committee on Indian Affairs and the Special Committee on Investigations have held numerous hearings on the growing problems of child abuse and neglect in Indian country. In November of 1988, the Select Committee on Indian Affairs held a field hearing in Flagstaff, AZ, which focused on the problems of sexual molestation of Indian children on the Navajo and Hopi reservations by Bureau of Indian Affairs employees and teachers. In February of 1989, the Special Committee on Investigations held hearings on the tragic problems of child sexual abuse in Indian country. The Report of the Special Committee on Investigations found that incidents of child abuse on Indian reservations were grossly underreported and that agency responses to incidents of child sexual abuse further traumatized the victim and their family. In response

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to the testimony received at these hearings Senators McCain and DeConcini introduced S. 1783, the Indian Child Abuse Prevention and Treatment Act, on October 24, 1989. S. 1783 is intended to improve reporting of cases of child abuse in Indian country and to provide resources for the treatment of victims of child sexual abuse. The Senate passed S. 1783 on November 17, 1989, and it is pending in the House Committee on Interior and Insular Affairs. As part of the Committee's examination of the problems of child abuse in Indian country, the Committee received significant testimony from Indian tribes regarding the lack of available resources for child protection and related child abuse prevention efforts.

On March 27, 1990, Senator McCain introduced S. 2340, the Indian Child Protective Services and Family Violence Prevention Act. This legislation was developed to complement the provisions of S. 1783, the Indian Child Abuse Prevention and Treatment Act. S. 2340, the Indian Child Protective Services and Family Violence Prevention Act would provide technical assistance and training related to the investigation and treatment of cases of family violence and child abuse and neglect. On June 7, 1990, the Select Committee on Indian Affairs held a hearing on S. 2340, the Indian Child Protective Services and Family Violence Prevention Act. At this hearing, the Committee received testimony from several tribal leaders who expressed the great need for increased resources to hire staff, to train existing staff, to initiate community education efforts in the schools on child abuse and neglect and to develop and enhance existing child protective services programs on Indian reservations. Many witnesses described problems related to an overall lack of resources to respond to incidents of child abuse and neglect in Indian country. In addition, there was testimony provided which expressed the need for increased resources to fund efforts to address the growing problem of domestic violence in Indian country to provide shelter and related assistance to victims of domestic violence and their dependents.

Throughout the Committee's review of the problems of child abuse and neglect, Indian tribes have consistently expressed the need for increased resources for the development and enhancement of child protective services programs on Indian reservations. Several tribes testified that there are no child protective services staff on their reservations and that child protective services on those reservations are provided by one social worker who is also responsible for all of the social service programs on the reservation, which includes making general assistance eligibility determinations for tribal members. In addition, one Indian tribe testified that their reservation, along with 7 other reservations, is served by two social workers. The population served by these two social workers numbers approximately 10,000 people. These social workers are responsible for providing the full-range of social services to these eight tribes. The distance between the northern-most reservation and the southern-most reservation is 75 miles and the average distance from the social services office to the reservation is over thirty-five miles. The Indian tribe further testified that these workers are unable to provide 24 hour coverage and do not work on the weekends so that if there are incidents of family violence or child abuse on any of these reservations during the weekend it will be, at the

very least, two days before any intervention occurs and treatment is provided.

Several tribal witnesses described the burdens placed on social services workers on the reservation. Because of the lack of adequate funding, tribal social services caseloads, regularly exceed seventy cases. In some instances, tribal social services caseworkers are handling over one hundred active cases. The National Association of Social Work has published recommended standards for social work practice in child protection. Under these standards, the reasonable caseload for a caseworker is 20 to 25 families. The National Association of Social Work also recommends the development of procedures to provide 24 hour coverage for child protection. The testimony received by the Committee indicates that most reservations do not have 24 hour child protective services coverage and that most child protective services workers are handling a caseload well in excess of recommended levels.

The Committee also received testimony from tribal witnesses regarding the roles of child protective services workers. In some instances, tribal child protective services workers are required to investigate incidents of child abuse and neglect, to report to the court their findings of child abuse or neglect and to testify against the family in the court proceedings. In addition to these responsibilities, some tribal child protective services workers are then ordered by the court to provide services to the family. Without adequate backup or counseling alternatives, child protective services workers in these situations are forced into circumstances where there is an inherent conflict of interest. In many instances, the family mistrusts and is therefore unable to work with the child protective services workers because of their role in the prosecution of the case of child abuse or neglect.

Over the course of the Committee's several hearings on the subject of child abuse and neglect, the Committee has received testimony from a variety of Indian tribes, tribal agencies and other agencies and associations which indicated a lack of coordination among various service providers on Indian reservations. This lack of coordination among various tribal, Federal and state agencies in addressing the issue of child abuse and neglect has resulted in many problems for Indian communities. In some documented cases, individuals with criminal records and prior convictions for sexual offenses have been hired for teaching positions in BIA or tribal schools. Failure to effectively develop procedures to conduct background investigations for these sensitive positions has resulted in incidents of child sexual abuse which could have otherwise been prevented. In addition, there was substantial testimony regarding the lack of coordination between law enforcement and social services in the investigation of cases of child abuse. Several expert witnesses testified about the importance of coordination in the investigation of child abuse cases and the special importance of agency coordination in the investigation of sexual abuse cases. Witnesses testified that coordinating investigations by law enforcement and child protective services in child sexual abuse cases helps to reduce any additional trauma to the victim. A major factor in helping to prevent the retraumatization of the victim is reducing the number of times a child is interviewed about the sexual abuse. Coordina-

tion in the investigation and treatment of cases of child abuse helps prevent unnecessary trauma to the victim and often times produces valuable expert testimony for use in any criminal prosecution.

The Committee is very concerned that the reluctance of professionals working in Indian country to report instances of child sexual abuse be corrected. The Committee has received testimony from tribal witnesses expressing their frustrations regarding the lack of timely prosecution of cases of child sexual abuse in Indian country. In many cases of child sexual abuse, Indian tribes have been unable to proceed with prosecutions in tribal court where the United States Attorney has declined to prosecute, because of breakdowns in communication with the United States Attorneys. The Committee is also very concerned with testimony received during the hearings on child abuse and neglect in Indian country which indicated that many federal officials and federal employees did not cooperate with local law enforcement and child protective services investigations into allegations of abuse or neglect. Several witnesses testified regarding IHS physicians refusing to testify in tribal court actions in cases of child abuse and neglect. The Committee also received testimony from tribal witnesses and federal law enforcement officials that IHS physicians refused to perform gynecological examinations on minors who were the victims of sexual abuse. The Committee is concerned that these problems may result in cases of child sexual abuse being dropped because of the failure to provide medical testimony as to the extent of the abuse and the extent of the trauma to the victim. Federal employees must cooperate fully in both tribal and federal proceedings to ensure that cases of child sexual abuse are of the highest priority. The Committee expects the Bureau of Indian Affairs and the Indian Health Service to develop policies consistent with local tribal laws to ensure the maximum protection for Indian children.

Both tribal and Federal witnesses testified in support of additional training and community education efforts in the area of family violence and child abuse and neglect. In many instances, teachers in reservation schools have not received adequate training on identifying signs of child abuse. Without adequate training, many cases will continue to go untreated. The Committee also received testimony regarding the lack of training available to IHS physicians regarding the administration of a gynecological examination on minors who were victims of sexual abuse. Some communities have initiated community education efforts without federal assistance to heighten community awareness of issues related to family violence and child abuse. Some tribes have started programs in the schools to educate children on these issues. Unfortunately neither, the BIA or the IHS have implemented nationwide training standards for teachers and other professionals who are in contact with Indian children.

In addition, the Committee received testimony about the lack of effective coordination between agencies responsible for the indenfification and investigation of incidents of child abuse and neglect. Although the Bureau of Indian Affairs and the Indian Health Service did testify about the creation of Child Protection Teams at the area and agency levels, the Bureau of Indian Affairs also indicated

that these teams do not have any funds to provide for coordination of child protection efforts. In addition, tribal witnesses indicated that Child Protection Teams lack clear authority and therefore remain largely ineffective in many areas of the country.

Another area where there has been a lack of coordination among the agencies responsible for child protection is in counselling services and treatment for victims of child abuse. The Committee received testimony from witnesses in these hearings which indicated that there is a lack of funds available to Indian communities to provide extensive counselling services to victims of child sexual abuse. Many of the tribes were unable to access funds from the Bureau of Indian Affairs or Indian Health Service to operate counselling programs for the large numbers of victims on the reservation. Indian tribes have not been able to effectively pool various resources to fund the development of a treatment program for victims of sexual abuse. In most cases, Indian tribes have had to contract with service providers on a short term basis to provide counselling services to Indian victims. Several witnesses testified before the Committee that the Indian Health Service has not provided funds for the victims of child abuse and family violence under the Contract Health Care program for counselling treatment that is otherwise unavailable to tribal members.

The Committee heard the testimony of many witnesses who described the difficulty of developing a comprehensive therapy program for the victims of child sexual abuse and family violence when the Indian tribe did not have a permanent full-time staff and when the Indian tribe was not able to obtain firm funding for the program. Several tribes testified about the increasing incidence of child sexual abuse and the complexities of treating the victims of child sexual abuse. There are many complicating factors in the treatment of the psychological problems associated with child sexual abuse. Several witnesses described the cycle of victimization which transforms the sexual abuse victim into a perpetrator of others and the phenomena of multi-generational sexual abuse within the family. These problems are exacerbated when the necessary counselling and treatment are not available. The Committee also received testimony from witnesses who stated that without adequate funding to provide these comprehensive counselling services, the victimization cycle would continue and the numbers of victims on the reservation would increase exponentially.

The Committee received testimony from several Indian tribes which described alarming situations where overloaded child protective services and family violence prevention workers are forced to contend with the problems of child sexual abuse, Indian babies born addicted to crack and cocaine, increasing numbers of fetal alcohol syndrome babies, as well as the high incidence of family violence, elder abuse and teenage suicide without funding to provide badly needed services. In many cases, the Indian families who have been receiving treatment for the problem of child abuse and neglect are also receiving treatment for substance abuse problems or domestic violence issues. Tribal witnesses testified at length about the need for coordination of treatment services. Several tribal witnesses testified about the lack of coordination among the various tribal, Federal and state agencies both in responding to treatment

issues as well as responding to investigation issues. On most reservations treatment for the victims of family violence and child abuse are provided by a variety of agencies. The Indian Health Service administers programs which provide mental health services to many Indian communities. Unfortunately, these mental health service programs do not have specialized training to provide counselling to victims of sexual abuse nor do they have sufficient funds to pay for specialized counseling at off-reservation facilities. Mental health services available on Indian reservations are currently inadequate to meet reservation needs.

The Committee received additional testimony from Indian tribes which indicated that most Indian reservations lack any shelter facilities for the victims of family violence. Indian tribes have testified that neither the Bureau of Indian Affairs nor the Indian Health Service provide funds for the construction, renovation, or staffing of shelters for victims of family violence. Tribal witnesses testified that victims are forced to travel to distant shelters located off reservation if they wish to leave an abusive situation. In most instances, victims of domestic violence stay in this violent situation without receiving assistance. Where the wife remains in the violent setting, the consequences are tragic both for the battered spouse and her children. In many areas of Indian country, there is an extremely high incidence of domestic violence and yet, because of an overall lack of resources, there are no services available to either the victim or the perpetrator. The Committee received testimony that in the State of South Dakota approximately 50% of the women and children in family violence shelters are Native Americans and yet, Native American women and children comprise only 4 to 5% of the entire state population. Most Indian communities do not have access to any shelter or related services and assistance despite having a singularly high incidence of domestic violence.

COMMITTEE AMENDMENT

The Committee adopted an amendment in the nature of a substitute to S. 2340, the Indian Child Protection Services and Family Violence Prevention Act. The substitute amendment would establish an Indian Child Resource and Family Services Center in each area office of the Bureau of Indian Affairs which will be comprised of multidisciplinary teams of personnel with experience and training in the prevention, identification, investigation and treatment of family violence and child abuse and neglect. The amendment expands the functions of the Indian Child Resource Centers originally proposed in S. 2340 to include issues related to the problem of family violence. In addition, the provisions of this section were amended to require the Secretary of the Interior and the Secretary of Health and Human Services to enter into a memorandum of agreement which provides for the staffing of the Indian Child Resource and Family Services Centers. The amendment authorizes $3,000,000 to be appropriated for each of the fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out the provisions of this section.

The substitute establishes the Indian Child Protection and Family Violence Prevention Program in the Bureau of Indian Affairs. The substitute amendment combines provisions in the origi-

nal bill to provide for consolidated funding for Indian Child Protective Services Programs and Indian Family Violence Prevention and Treatment Programs. Under the substitute amendment any Indian tribe, tribal organization or intertribal consortium can enter into an agreement with the Secretary of the Interior pursuant to the Indian Self-Determination Act for the development of an Indian Child Protection and Family Violence Prevention Program on the reservation.

The substitute amendment also provides that the Secretary of the Interior, with the participation of Indian tribes, shall establish a funding formula to provide base support funding for Indian Child Protection and Family Violence Prevention Programs. The Secretary of the Interior shall develop, in consultation with Indian tribes, appropriate caseload standards and staffing patterns for child protective services programs and family violence prevention and treatment programs. The substitute sets forth the factors to be considered in the development of the base support funding levels.

Finally, the substitute amendment authorizes $30,000,000 to be appropriated for each of the fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out the provisions of this section. Before adopting the substitute, the Committee adopted an amendment offered by Senator Murkowski relating to contracting for the Juneau Area Indian Child Resource and Family Services Center.

OTHER CONSIDERATIONS

The Committee intends that the programs established under this Act be implemented in a manner that provides coordination between tribal agencies and Federal agencies in the provision of child protection and family violence prevention and treatment. Under section 4, the Committee intends the Indian Child Resource and Family Service Centers to be resources to Indian tribes and to require the Bureau of Indian Affairs and Indian Health Service to coordinate services to Indian tribes. A vital part of coordinating services to Indian tribes is the direct and continued consultation and participation of Indian tribes in the development of tribal laws, policies and procedures on the identification, investigation, prevention and treatment of cases of family violence and child abuse neglect. The Committee is very concerned that the Bureau of Indian Affairs and the Indian Health Service develop policies and procedures that are consistent with local tribal laws. The Committee intends that the Bureau of Indian Affairs and the Indian Health Service develop the necessary expertise in their personnel to adequately carry out the provisions of this section. The Committee is very concerned that there is a general lack of trained professionals in the areas of family violence prevention and treatment and child abuse and neglect within the Bureau of Indian Affairs and the Indian Health Service. If an Indian tribe or organization contracts an Indian Child Resource and Family Services Center under this section, that tribe or organization shall be responsible for the delivery of services to the entire area. Because of the different programs available from reservation to reservation in any given area, the active participation of the Indian tribes within the area becomes of greater importance. The Committee intends the resource centers

created under this section to provide the necessary technical assistance for Indian tribes to develop their own child protection and family violence prevention and treatment programs to meet their specific community needs.

The Committee is very concerned that the consolidated funding established in the act be implemented to provide maximum flexibility to Indian tribes in the development of Indian Child Protection and Family Violence Prevention Programs. Under the program established in Section 5 of the bill, the Committee intends that an Indian tribe, tribal organization, or inter-tribal consortia could enter into an agreement with the Secretary of the Interior to develop any or all of the programs described in that section. The Committee intends this section to allow an Indian tribe to develop any of the programs described in the section in one agreement with the Secretary. The regulations developed by the Secretary under this section shall promote maximum flexibility and tribal control over the development of the programs described in this section. In addition, these regulations shall ensure the development of programs appropriate to the needs of each Indian community.

The Committee also directs the Secretary to develop information to be contained in the annual report to the Congress under Section 6 of the Act which describes the levels of assistance required in the development of the programs described in section 5 of the Act. The report to the Congress shall also set out relevant statistics regarding monthly caseloads of child protective services and family violence prevention workers, number and types of court dispositions of child abuse and family violence cases, numbers of reported cases of family violence and child abuse and neglect, and a description of treatment alternatives for victims of family violence and child abuse and neglect. In addition, the Committee is concerned about the lack of adequate foster homes on Indian reservations. The report to the Congress shall set out the number of foster homes available on Indian reservations and the number of projected foster homes needed to adequately provide placement options to tribal social services programs. The report also should establish the level of assistance required to recruit and maintain foster homes on the reservation using standards developed by the National Association of Social Work or the Child Welfare League of America or other comparable professional standards. In developing these standards, the Secretary shall consult with Indian tribes and seek estimates for tribal programs on the resources needed to recruit and maintain an adequate number of foster homes for the reservations.

Several witnesses expressed concern that funds made available to Indian tribes through competitive grant programs created uncertainty in continued funding for the programs. Many tribal witnesses cited the Indian Child Welfare Act grant program as an example of the problems experienced by Indian tribes when program grants are not renewed or decreased because of an increased number of applicants. These fluctuations in funding caused a number of programs in Indian country to be discontinued and a number of communities to be suddenly without services. Because of the problems cited by tribal witnesses, the Committee chose to utilize P.L. 93-638 authority to establish base support funding for the Indian Child Protection and Family Violence Prevention Program.

LEGISLATIVE HISTORY

S. 2340 was introduced in the United States Senate on March 27, 1990 by Mr. McCain of Arizona and was referred to the Select Committee on Indian Affairs. A hearing on S. 2340 was held on July 7, 1990. The bill was considered by the Select Committee in an open business session on July 25, 1990, and was ordered reported as amended.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

In open business session on July 25, 1990, the Select Committee on Indian Affairs, by a unanimous vote of a quorum present, ordered the bill, as amended, reported with the recommendation that the Senate adopt the bill.

SECTION-BY-SECTION SUMMARY ANALYSIS

Section 1

Section 1 cites the short title as the "Indian Child Protective Services and Family Violence Prevention Act."

Section 2

Section 2 sets out the purposes of the bill, which include providing for technical assistance and training related to the investigation and treatment of cases of child abuse and neglect, to improve and enhance child protective services and to provide for the treatment and prevention of incidents of family violence.

Section 3

Section 3 sets out the definitions.

Section 4

Section 4 of the bill establishes Indian Child Resource and Family Services Centers in each area office of the Bureau of Indian Affairs. It provides that the Secretary of the Interior and the Secretary of Health and Human Services shall enter into a Memorandum of Agreement to staff each Indian Child Resource and Family Services Center. Each Indian Child Resource and Family Services Center will be staffed by multidisciplinary teams of personnel with experience and training in the prevention, identification, and treatment of family violence and child abuse and neglect.

Section 4 also provides that Indian Child Resource and Family Services Centers shall provide advice and consultation to Indian tribes, Indian organizations and inter-tribal consortia, provide training to Indian tribes, Indian organizations, personnel of the Bureau of Indian Affairs, and personnel of the Indian Health Service in the identification and investigation of cases of family violence and child abuse and neglect, and develop training materials on the prevention, identification, investigation and treatment of family violence and child abuse and neglect. In addition, the Centers shall develop policies and procedures for the Bureau of Indian Affairs and the Indian Health Service which, to the extent feasible, comply with tribal laws pertaining to family violence and child abuse and neglect and promote maximum cooperation in the en-

forcement of such laws. The Indian Child Resource and Family Services Centers are subject to the provisions of the Indian Self-Determination and Education Assistance Act, except that in the Juneau Area, the only consent required of an applicant would be of those tribes engaged in contracting to provide services under Section 5.

$3,000,000 is authorized to be appropriated for each of the fiscal years 1991, 1992, 1993, 1994 and 1995 to carry out the provisions of this section.

Section 5

Section 5 establishes within the Department of the Interior the Indian Child Protection and Family Violence Prevention Program to provide grants to any Indian tribe, tribal organization or inter-tribal consortium for the development of an Indian child protection and family violence prevention program.

Paragraph (b) of section 5 provides that the Secretary of the Interior is authorized to enter into agreements with Indian tribes, tribal organizations, or inter-tribal consortia pursuant to the Indian Self-Determination Act to establish Indian Child Protection and Family Violence Prevention Programs on the reservation.

Paragraph (c) of section 5 sets out the responsibilities of an Indian Child Protective Services Program.

Paragraph (d) of section 5 sets out the responsibilities of an Indian Family Violence Prevention and Treatment Program.

Paragraph (e) of section 5 provides that Indian Child Protection and Family Violence Prevention funds may be used for the establishment of a child protective services program responsible for the investigation of reported cases of child abuse and neglect, for the establishment of a family violence prevention and treatment program to provide immediate shelter and related assistance for the victims of family violence and their dependents; for the development and implementation of a multidisciplinary child abuse investigation and prosecution program; for the establishment of training programs or community education programs on issues of family violence and child abuse and neglect; for the establishment of programs which provide educational, identification, prevention, and treatment services on child abuse and neglect in reservation schools or to establish such other innovative and culturally relevant programs and projects as the Secretary may approve.

Paragraph (f) provides that the Secretary of the Interior, with the participation of Indian tribes, shall develop a formula which establishes base support funding for Indian child protection and family violence prevention programs. It further provides that the Secretary of the Interior in consultation with Indian tribes shall develop appropriate caseload standards and staffing patterns for child protective services and family violence prevention and treatment programs. It sets out the factors to be considered in the development of the base support funding levels.

Paragraph (g) of this section states that the funds awarded under this section shall supplement, not supplant, services provided through any other funds available for the same general purposes.

Paragraph (h) sets out the reporting requirements for Indian tribes participating in the Indian Child Protection and Family Violence Prevention Program.

Paragraph (i) authorizes $30,000,000 to be appropriated for each of the fiscal years 1991, 1992, 1993, 1994 and 1995 to carry out the provisions of this section.

COST AND BUDGETARY CONSIDERATION

The cost estimate for S. 2340, as provided by the Congressional Budget Office, is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 27, 1990.

Hon. DANIEL K. INOUYE,
Chairman, Select Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 2340, the Indian Child Protective Services and Family Violence Prevention Act.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE, JULY 27, 1990

1. Bill number: S. 2340.

2. Bill title: Indian Child Protective Services and Family Violence Prevention Act.

3. Bill status: Ordered reported by the Senate Select Committee on Indian Affairs, July 25, 1990.

4. Bill purpose: S. 2340 would establish within the Bureau of Indian Affairs (BIA) an Indian Child Protection and Family Violence Prevention Program. This program would provide funds for the investigation, treatment and prevention of child abuse and family violence. Funds could be used for a broad range of activities, including training, facilities and community education. This bill would authorize $30 million per year for five years for this program, to be distributed to tribes using a funding formula to be developed by the Secretary of the Interior.

S. 2340 also would authorize $3 million per year for the establishment of an Indian Child Resource and Family Service Center in each area office of the BIA. Centers would include professionals from a variety of related backgrounds and would provide advice and training to Indian organizations on issues of family and child abuse.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
Child Abuse and Family Violence Prevention Program:					
Authorization level	30	30	30	30	30
Estimated outlays	24	30	30	30	30
Child Resource and Family Services Centers:					
Authorization level	3	3	3	3	3
Estimated outlays	2	3	3	3	3
Total:					
Authorization level	33	33	33	33	33
Estimated outlays	26	33	33	33	33

The costs of this bill fall within budget function 450.

Basis of estimate: This estimate assumes that this bill is enacted by October 1, 1990, and that the full amounts authorized are appropriated. Outlays are estimated based on historical spending patterns for BIA programs.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Marta Morgan.

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 2340 will have minimal regulatory or paperwork impact.

EXECUTIVE COMMUNICATIONS

The only communications received by the Committee from the Executive Branch with respect to S. 2340 were in the form of testimony from the Bureau of Indian Affairs and the Indian Health Service. Set forth below is the testimony of Mr. Ronal D. Eden, Acting Deputy Assistant Secretary for Indian Affairs (Tribal Services) and Dr. Craig Vanderwagen, Director, Division of Clinical and Preventive Services, Indian Health Service, on June 7, 1990:

STATEMENT OF RONAL D. EDEN, ACTING DEPUTY ASSISTANT SECRETARY FOR INDIAN AFFAIRS (TRIBAL SERVICES), DEPARTMENT OF THE INTERIOR

Good morning, Mr. Chairman and Members of the Committee. I am pleased to be here today to present the views of the Department of the Interior on S. 2340, a bill "To develop and improve child protective service programs on Indian reservations and to strengthen Indian families".

We strongly support the goals of S. 2340. However, we believe that generally, the goals of this legislation could be achieved under existing program authority and therefore, S. 2340 is unnecessary.

The purposes of S. 2340 are to (1) provide for technical assistance and training related to the investigation and treatment of cases of child abuse and neglect; (2) establish Indian child resource centers in each area office of the Bureau of Indian Affairs which will consist of multi-disciplinary teams of personnel with experience and training in the prevention, identification, investigation, and treatment of child abuse and neglect; (3) provide for the treatment and prevention of incidents of family violence; and (4) authorize other actions as necessary to ensure effective child protection on Indian reservations.

While the purposes of the bill are provided in Section 2 of S. 2340, it is unclear to us how Congress intends that the purposes of the Act would be implemented in ways other than those already in practice or under development. In our view, a child protection service program is provided to ensure that reasonable efforts are made to maintain child safety in the home or under permanent placement, if parental rights must be terminated. Further, we would prefer that Congress continue to afford the Bureau of Indian Affairs the flexibility to continue incremental improvement of its child abuse/neglect program as an integrated component of the child welfare system composed of BIA and IHS staff and Child Protection Teams (CPT's).

The Bureau has been pursuing a special anti-child abuse initiative since FY 1989 within its Social Services Program. Required funding for the initiative has been provided on an incremental basis within the Social Services Tribe/Agency budget. In FY 1991, the President's budget proposes to fund the initiative at $6 million, which is an increase of $2 million over the FY 1990 base. With these added resources, the Bureau will continue to build permanent staff at the Area Office and Tribe/Agency levels, increase the skills and knowledge of case workers, and improve coordination of services with other governmental entities. Future incremental increases are planned to support the initiative in continued consultation with tribes. As this initiative progresses, more tribal contracting for component parts of the Bureau system will be possible. Moreover, we believe that the current approach will ensure that we effectively address the needs of children at risk of abuse and neglect.

We also believe that another step toward better child protection services would be to encourage tribes to engage in closer cooperation with state or regional training institutions. For example, a permanently established training academy was created in 1987 by the Arizona Department of Economic Security, the Inter-tribal Council of Arizona, and the Arizona State University School of Social Work, with assistance from the Bureau of Indian Affairs. The academy trains social workers on how to deal with abuse and neglect issues under a model curriculum.

We note that Section 3 does not distinguish the terms "abuse" and "neglect". There are significant conceptual

differences between these two terms. Typically, the concept of neglect is viewed as an omission, a lack of care, combined usually with an unintentional chronic behavior pattern of the parent(s) toward the child. Abuse is considered a commission, intent or excessive punishment or sexual activity with the child so that it leads to harm or threat of harm to the child.

Also in Section 3, we note that the definition of "child abuse and neglect" only includes injuries done by persons responsible for the child's welfare. It therefore excludes neighbors, friends, older children, and others. We strongly object to this limited definition.

On the issue of funding under Section 5, we believe the intended categories of action would fall within existing program authority providing for services; e.g. prevention, intervention, treatment, placement, and reunification. Accordingly, funding for child abuse/neglect and family violence could be directed to these programs and avoid the risk of duplication.

I had hoped to present the Committee with data to illustrate the scope of child abuse/neglect in Indian Country. The Bureau has been collecting raw data on incidents of child abuse and neglect since October of 1987 and such data from October 1988 to September 1989 has been submitted by Bureau Area Offices for manual consolidation. Regrettably, standard defined categories of activity and data bases illustrating such categories are information actions which are still to be developed that would enable us to know, in a timely manner, the current status of reported and investigated instances. The most recent data available is from calendar year 1988.

The problems with coping with child abuse and neglect are complex, and cut across many service agencies and jurisdictions. Statistics gathered by the Bureau of Indian Affairs' Social Services staff indicate that 7,183 complaints of child abuse were received in 1988. Approximately 700 of these complaints involved allegations of sexual abuse; approximately 4,700 complaints involved allegations of neglect; and the remaining complaints involved allegations of abuse other than sexual abuse. Importantly, approximately 3,100 or about 43% of the cases involved some form of substance abuse, suggesting that, if substance abuse could be eliminated, a significant portion of the incidents of child abuse and neglect might be reduced. It is apparent, however, that we cannot rely exclusively upon the elimination of substance abuse as the only means toward the prevention of child abuse and neglect. With multi-disciplinary teams working on the issues at the regional level, it is more likely that we can come to understand the causes and effects of child abuse and neglect, and how to best treat individual children to remedy the effects.

With respect to family violence, the Bureau has virtually no summary data. While the Bureau does have the Integrated Police Law Enforcement Management System

(IPLEMS) in place which has the capability to store and retrieve extensive information on domestic violence, it is not fully operational across the country at this time. The Bureau law enforcement officers provide monthly narrative call reports which include the broader subject of domestic disturbances. Information about calls received by social workers relative to family violence other than child abuse/neglect, are not reported for systematic processing. Thus, while empirically we know that family violence is a real threat to the Indian family unit, the Bureau has not quantified this problem. We understand, however, that there is significant family violence occurring in Indian country which is causing tribal leaders great concern.

In closing, we would be pleased to work with the Congress through the annual budget process to firmly establish and continue to improve the existing social service system integrated component approach in dealing with child abuse/neglect and family violence in Indian country. We believe that existing authorities provide the latitude to accomplish the activities addressed in this legislation.

This concludes my prepared statement. I will be happy to answer any questions the Committee may have.

STATEMENT OF DR. CRAIG VANDERWAGEN, DIRECTOR, DIVISION OF CLINICAL AND PREVENTIVE SERVICES, INDIAN HEALTH SERVICE

Mr. Chairman and Members of the Committee: I am Dr. Craig Vanderwagen, Director, Division of Clinical and Preventive Services, Indian Health Service (IHS). I am accompanied today by Dr. Albert Hiat, Chief of the Children's Section of the Mental Health Programs Branch of the Indian Health Service. We appreciate the opportunity to comment on the Indian child protective services issues.

Child abuse and neglect, including child sexual abuse and family violence are serious and significant health and social problems affecting many Alaska Native and American Indian children, families and communities. They are frequently associated with substance abuse, family stress and dysfunction.

Victims of child abuse and family violence who do not receive treatment are at risk for becoming seriously mentally ill, becoming substance abusers, and failing at or dropping out of school and work. Equally important, they are at high risk for becoming abusers themselves, thereby continuing the cycle of violence in their families.

As you have heard from others, the complexity of the issues associated with child abuse and family violence in Native American communities requires complex intervention and prevention strategies involving many different agencies and disciplines. It also requires culturally sensitive approaches involving tribal leaders, concerned and informed parents and others working in a spirit of collaboration and cooperation.

In collaboration with the Bureau of Indian Affairs and various Tribal human service entities, the IHS is exerting every effort possible to ensure that abused children and their families receive the necessary supportive services. Victims of child abuse require the coordinated services of highly skilled professionals from a broad range of disciplines. The needs of these children and their families are great.

The ultimate solution to child abuse is prevention. Not all the risk factors associated with child abuse are known. However, studies indicate that child abuse is more likely to occur in large low income families who live in crowded conditions. It is frequently associated with alcohol abuse and is often the tragic marker of domestic dysfunction and violence. Given these associated factors and specialized treatment considerations that enter into the problem of child abuse, it is clear that no single agency has either the skill or the resources to adequately treat, and especially prevent child abuse. Furthermore, programs leading to successful child abuse prevention must emerge from community awareness and concern, and efforts to develop an implementation plan for correction.

The proposed establishment of Indian Child Resource Centers staffed by multi-disciplinary teams within each Area of the Bureau of Indian Affairs (BIA), could provide a much needed resource that could serve to unify services and allow a team to devote a full time effort to address child abuse and neglect. This local, multi-disciplinary approach is consistent with our goals under our National Mental Health Plan. We in IHS are confident that our providers in each Area would cooperate and collaborate fully with these teams.

Recognizing the importance of addressing family violence and the special role that Native American communities have in taking responsibility for this problem, the Director of IHS established a Special Initiatives Team in our mental health office in 1986. The Team provides commnuty education, technical assistance and consultation to Tribes and service units on request. Additionally, as part of the work with the BIA/IHS National Oversight Committee for Child Protection, members of the Team are in the process of developing a manual to assist tribes and service units in addressing family violence. The Team would continue to be available for assistance to any tribe regardless of their participation in the proposed grant program, when such help is requested.

Similar to State and local jurisdictions, we are doing as much as possbile to provide services to victims of family violence. This includes the availability, within our current resources, of mental health treatment for victims and perpetrators. The Office of Technology Assessment recently issued a report indicating that a need exists for at least 200 mental health staff who are trained specifically to provide mental health services to children and adolescents

should be available to Native American communities. Currently 17 such staff are working in the field. IHS has identified goals to address such specialized staffing in its National Mental Health Plan.

However, there are several programs in the Department which currently fund such services:

The Family Violence Prevention and Service Act awards grants to eligible Tribes on a non-competitive basis. These funds are used by tribes as "seed money" to provide immediate shelter and related assistance to victims of family violence and their dependents. Activities include use of safe houses and other temporary housing, counseling programs, self-help groups, and community education activities against child abuse and family violence.

Child Welfare Service, title IV–B of the Social Security Act, makes grants to Indian Tribes to protect and promote the welfare of all children; assist in the solution of problems which may result in the neglect, abuse, exploitation, or delinquency of children; and provide services to prevent the unnecessary separation of children from their families.

Social Service Block Grant makes grants to States from a wide range of social services depending on State needs and priorities. In several States, e.g., Arizona, Minnesota, the State makes grants to Indian Tribes for the direct conduct of services, including child abuse, substance abuse, and family violence prevention.

We have no data on how much funding Indian tribes received from the Social Services block grant. However, of the other two programs, tribes received an approximate total of $1 million per year.

Earlier I mentioned our National Mental Health Plan. I would like to emphasize that we are currently developing a long-range strategy for improving the mental health of American Indian and Alaska Native people. Part of this strategy will involve a strong focus on the dysfunctional family and the continuing cycle of family violence, alcohol and substance abuse, and child abuse.

This enhanced emphasis on mental health will be supported initially by the $87 million appropriated by the Congress in FY 1990, a 40-percent increase over FY 1989, for the IHS Mental Health Alcoholism, and anti-Drug Abuse programs. Although not specifically identified as child abuse prevention programs, these programs all treat the dysfunctional behaviors which often result in the victimization of Indian children. With these enhanced programs continued at the FY 1990 level in FY 1991, a total of over $200 million will have been made available for a three year period.

Mr. Chairman, we have endeavored to show that we are approaching this issue in a variety of ways through broad authority. We appreciate your concern and support as evi-

denced by S. 2340, which places additional focus on the need to continually strengthen these efforts. However, in our view, the proposed categorical program would unnecessarily complicate our efforts. For example, we believe the separate grant programs would tend to further separate the responsibilities of the two agencies rather than contribute to the cohesive approach we are striving to achieve. In addition, the funding mechanisms are different. One includes a matching grant, thereby requiring the tribe to make some choice between allocation of its assets, while the other does not. The difficulties which presently exist in gaining community acceptance are due in part to such differences in approach, and our concern again is to unify the approach. Further, we want to base our efforts on need without using competitive grants which only serve to delay progress and create additional administrative burdens. In addition, using our permanent broad authority would give greater assurance of our long-range commitment than would a time-limited categorical authority. Finally, BIA has noted examples of definitional problems, with which we concur, and can only add that from a medical standpoint the problems are even more complex. In fact, we are convinced that the issue does not lend itself to such legislative prescription but requires the judgment of experts in the field. In summary, while we concur with the overall intent of this proposal, we agree with the Bureau of Indian Affairs that no additional legislative authority is needed.

Mr. Chairman, this concludes my prepared statement. I would be happy to answer any questions the Committee may have.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that enactment of S. 2340 will not result in any changes in existing law.

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